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DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-828]

Stainless Steel Butt-Weld Pipe Fittings from Italy: Preliminary Results of Antidumping Duty Administrative Review and Preliminary No Shipment Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: In response to requests for an administrative review, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel butt-weld pipe fittings (SSBW pipe fittings) from Italy. The review involves the imports of subject merchandise of two respondent companies and covers the period February 1, 2010, through January 31, 2011. For these preliminary results, we found that one respondent made sales of subject merchandise at or above normal value while the other respondent had no shipments of subject merchandise during the period of review.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3931 or (202) 482-3019, respectively.

SUPPLEMENTARY INFORMATION:

Period of Review

The period of review is February 1, 2010, through January 31, 2011.

Background

On February 1, 2011, the Department published a notice of opportunity to request an administrative review of the order on SSBW pipe fittings from Italy. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 76 FR 5559 (February 1, 2011). In response, the Department received requests from two companies – Tectubi Raccordi S.p.A. (Tectubi) and Filmag Italia SRL (Fimag) – on February 28, 2011. In each request, the companies requested a review of their own sales. We initiated the review of both companies on March 31, 2011. *See Initiation of Antidumping Duty Administrative Reviews, Requests for Revocation in Part, and Deferral of Administrative Review*, 76 FR 17825 (March 31, 2011).

On October 31, 2011, we extended the time limit for completion of the preliminary results of the review to no later than December 15, 2011. *See Stainless Steel Butt-Weld Pipe Fittings From Italy; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 67146 (October 31, 2011).

Both Tectubi and Filmag submitted responses to the Department’s antidumping questionnaire and responses to subsequent requests for clarifications or additional information. The petitioner did not file any comments on these submissions.

Preliminary Determination of No Shipments

In its response to the Department’s antidumping questionnaire, Filmag stated that it had no sales of subject merchandise during the period of review. We later confirmed with U.S. Customs and Border Protection (CBP) that this company had no entries of SSBW pipe fittings from Italy during the period of review. *See* “Memorandum to the File” regarding No Shipments

Inquiries for Filmag Italia SRL, dated November 28, 2011. Because the evidence on the record indicates that Filmag did not export subject merchandise to the United States during the period of review, we preliminarily determine that it had no reviewable transactions during this period.

Our past practice concerning no-shipment respondents was to rescind the administrative review if the respondent certified that it had no shipments and we confirmed the certified statement through an examination of CBP data. We would then instruct CBP to liquidate any entries of merchandise produced by the respondent at the deposit rate in effect on the date of entry. However, in our May 6, 2003, “automatic assessment” clarification, we explained that, where respondents in an administrative review demonstrated that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-others rate applicable to the proceeding. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). Thus, our practice of rescinding no-shipment reviews did not comport with the clarification, since it was our intent to no longer liquidate the entries of resellers, of which a respondent company had no knowledge, at an “as entered” rate.

Therefore, instead of rescinding the review with respect to Filmag, we find it appropriate to complete the review and issue liquidation instructions to CBP concerning entries for this company following the final results of the review. If we continue to find that Filmag had no reviewable transactions of subject merchandise in the final results, we will instruct CBP to liquidate any existing entries of merchandise produced by Filmag but exported by other parties at the all-others rate. *See, e.g., Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922 (May 13, 2010), unchanged in

Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review, 75 FR 56989 (September 17, 2010).

Collapsing of Affiliated Companies

In its original and supplemental questionnaire responses, Tectubi reported all home-market and U.S. sales of SSBW pipe fittings from Italy that involved itself and two affiliates, Raccordi Forgiati S.r.l. (Raccordi) and Allied International S.r.l. (Allied). Tectubi explained that, although it had made the only sales of subject merchandise during the period of review, it concluded that the questionnaire instructions required a response on behalf of all three companies based on their close affiliation with one another and Raccordi and Allied's involvement in the production and sale of SSBW pipe fittings.

When considering whether to collapse affiliates and treat them as a single entity for purposes of an administrative review, we first consider their affiliation to one another. Because Tectubi and Raccordi are wholly-owned subsidiaries of Allied, we found that the three companies were affiliated under section 771(33)(E) and (F) of the Tariff Act of 1930, as amended (the Act).

We next found that, as both Tectubi and Raccordi produced the merchandise under review during the period of review, they had production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure their manufacturing priorities, as required under 19 CFR 351.401(f)(1). We also found that there was a significant potential for the manipulation of price or production between the two companies, based on their common ownership, their shared president and chief executive officer (CEO), and their intertwined production operations. We found that, in the case of Tectubi's sales of

Raccordi's product, they also shared sales information. Accordingly, because both collapsing criteria were met under 19 CFR 351.401(f)(1), we concluded that Tectubi and Raccordi should be treated as a single entity for purposes of this review.

In keeping with the Department's practice to consider the collapsing of affiliated processors and exporters, our consideration of collapsing extended to Allied as well. *See Certain Frozen and Canned Warmwater Shrimp from Brazil: Final Determination of Sales at Less Than Fair Value*, 69 FR 76910 (December 23, 2004) (*Shrimp from Brazil*), and accompanying Issues and Decision Memorandum at Comment 5. As in *Shrimp from Brazil*, we found in the current review that the ownership, management and operations of a producer and an affiliated exporter were so intertwined that management could switch the role of producer and seller between the two companies without substantial retooling of either company. Specifically, we found that Raccordi and Allied shared the same president and CEO, as well as two managers and the staff of two company units, including that of the commercial unit. In terms of operations, we found that Allied acted as the primary sales arm for Raccordi for sales made to affiliated and unaffiliated parties in Italy and all export markets.

As for the second criteria of 19 CFR 351.401(f)(1), we found a significant potential for the manipulation of price or production between Allied and the two producing companies. Apart from sharing ownership and management, the three companies: 1) shared sales information, as Raccordi was dependent on the other two companies for sales promotion and processing; 2) coordinated their production and pricing decisions; 3) shared employees in the case of Raccordi and Allied; and 4) had significant transactions between them, due to Raccordi's reliance on Tectubi and Allied to market its products.

Therefore, we concluded that Tectubi, Raccordi and Allied should be treated as a single entity for purposes of calculating a dumping margin pursuant to the provisions of 19 CFR 351.401(f). Consequently, we calculated a dumping margin based on the sales information reported by Tectubi for all three companies for these preliminary results.

For a more detailed discussion of our collapsing decision, *see* the “Memorandum to the File” regarding Tectubi Raccordi S.p.A. – Analysis Memorandum for the Preliminary Results of the 2010/2011 Administrative Review of Stainless Steel Butt-Weld Pipe Fittings from Italy, dated December 15, 2011 (Tectubi Analysis Memorandum), at 2-5.

Scope of the Order

For purposes of the order, the product covered is certain stainless steel butt-weld pipe fittings. SSBW pipe fittings are under 14 inches in outside diameter (based on nominal pipe size), whether finished or unfinished. The product encompasses all grades of stainless steel and “commodity” and “specialty” fittings. Specifically excluded from the definition are threaded, grooved, and bolted fittings, and fittings made from any material other than stainless steel.

The butt-weld fittings subject to the order are generally designated under specification ASTM A403/A403M, the standard specification for Wrought Austenitic Stainless Steel Piping Fittings, or its foreign equivalents (*e.g.*, DIN or JIS specifications). This specification covers two general classes of fittings, WP and CR, of wrought austenitic stainless steel fittings of seamless and welded construction covered by the latest revision of ANSI B16.9, ANSI B16.11, and ANSI B16.28. Butt-weld fittings manufactured to specification ASTM A774, or its foreign equivalents, are also covered by the order.

The order does not apply to cast fittings. Cast austenitic stainless steel pipe fittings are covered by specifications A351/A351M, A743/743M, and A744/A744M.

The butt-weld fittings subject to the order is currently classifiable under subheading 7307.23.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Fair Value Comparisons

To determine if sales of subject merchandise were made in the United States at less than fair value, we compared the export price of U.S. sales to normal value, as described in the “Export Price” and “Normal Value” sections of this notice. In accordance with section 777A(d)(2) of the Act, we compared the export price of U.S. sales within the period of review to the monthly, weighted-average normal value of foreign like product where there were sales made in the ordinary course of trade, as discussed in the “Price-to-Price Comparisons” section below.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all SSBW pipe fittings produced by the collapsed entity (hereinafter referred to as Tectubi), covered by the description in the “Scope of the Order” section above, and sold in the home market during the period of review, to be foreign like product for purposes of determining appropriate product comparisons to subject merchandise sold in the United States. We relied on the following product characteristics to identify identical or similar subject merchandise and foreign like product: (1) the type of fitting; (2) the grade of steel; (3) the type of feedstock used in the production of the fitting; (4) the nominal pipe sizes of the larger and, if applicable, smaller openings; and, (5) the

wall thickness of the pipe. We found that Tectubi had reported a contemporaneous sale of identical foreign like product for each sale of subject merchandise it made to the United States during the period of review.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act and to the extent practicable, we determine normal value based on sales made in the home market at the same level of trade as export price or the constructed export price. The normal-value level of trade is based on the starting prices of sales in the home market or, when normal value is based on constructed value, those of the sales from which we derived selling, general, and administrative expenses and profit. *See* 19 CFR 351.412(c)(1)(iii). For export price, the level of trade is based on the starting price, which is usually the price from the exporter to the importer. *See* 19 CFR 351.412(c)(1)(i). In this review, Tectubi reported only export-price sales to the United States.

To determine if the home-market sales are made at a different level of trade than export sales, we examined stages in the marketing process and the selling functions performed along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If home-market sales are at a different level of trade, as manifested in a pattern of consistent price differences between the sales on which normal value is based and home-market sales made at the level of trade of the export transaction, and the difference affects price comparability, then we make a level-of-trade adjustment to normal value under section 773(a)(7)(A) of the Act and 19 CFR 351.412. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In the home market, Tectubi identified the following two channels of distribution through which it had made sales during the period of review: (1) direct sales made by Tectubi and, (2) indirect sales made through Allied to the first unaffiliated customer. Tectubi reported that all of the sales had been made at a single level of trade. Based on our analysis of Tectubi's selling functions, we found that the sales made in both channels of distribution were made at one level of trade. With respect to the U.S. market, Tectubi reported that its export-price sales were made through one channel of distribution – direct sales made by Tectubi to the U.S. unaffiliated customer – and that they had been made at one level of trade. Based on our analysis of the selling functions performed by Tectubi on these sales, we found them to be made at one export-price level of trade.

We then compared the selling functions performed for the sales at the normal-value level of trade to those performed for the export-price level of trade and found that Tectubi performed a greater range of selling functions for the home-market sales than for the U.S. sales. But, because there was only one level of trade in the home market and no data were available to determine the existence of a pattern of price differences within that market and because we do not have any other information that provides an appropriate basis for determining a level-of-trade adjustment, we were unable to calculate a level-of-trade adjustment. Therefore, for these preliminary results, we matched the export-price sales to home-market sales without making a level-of-trade adjustment to normal value. *See* section 773(a)(7)(A) of the Act.

For a more detailed discussion of our analysis, *see* the “Level of Trade” section in the Tectubi Analysis Memorandum at 5 and 6.

Date of Sale

The regulation at 19 CFR 351.401(i) states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

Tectubi reported that, in the home market, it generally ships the merchandise to the customer and issues the invoice near the end of the month of shipment. For this reason, it reported the date of shipment as the date of sale for all home-market sales. It reported invoice date as the date of sale for its U.S. sales, since Tectubi issues the invoice when the merchandise leaves the factory for all export sales.

Based on this information and our practice, we found that date of shipment best reflected the date on which material terms of sales were established in the home market. We found that the invoice date best reflected this date in the U.S. market. Accordingly, we found these dates –

the shipment date in the home market and the invoice date in the U.S. market – to be the most appropriate dates of sale for these preliminary results. For a more detailed discussion of this topic, see the “Date of Sale” section of the Tectubi Analysis Memorandum at 6 and 7.

Export Price

Section 772(a) of the Act defines export price as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).”

For purposes of these preliminary results, we calculated export price for sales by Tectubi in accordance with section 772(a) of the Act because the merchandise was sold, prior to importation by the producer, outside of the United States to the first unaffiliated purchaser in the United States. We calculated export price based on the packed price that was charged to the first unaffiliated U.S. customer. We made deductions for movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act, including deductions for foreign inland freight (plant/warehouse to the port of exit), international freight, U.S. inland freight (port of entry to the unaffiliated customer), marine insurance, brokerage and handling and U.S. customs duties. We also made adjustments, where appropriate, for imputed credit and certain direct selling expenses, such as U.S. sales commissions and bank charges.

Normal Value

A. Selection of Home Market

To determine if there was a sufficient volume of sales of SSBW pipe fittings in the home market during the period of review to serve as a viable basis for calculating normal value, we compared Tectubi's volume of home-market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act. Because the aggregate volume of the home-market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales for subject merchandise, we determined that the home market was viable for comparison purposes, pursuant to section 773(a)(1)(B) of the Act.

B. Price-to-Price Comparisons

We calculated normal value based on prices to the first, unaffiliated customers. In our calculation of normal value, we accounted for certain sales discounts. We did not make deductions for movement or warehousing expenses, pursuant to section 773(a)(6)(B) of the Act, as all sales were *ex works*. We made adjustments for differences in circumstances of sale (COS), in accordance with section 773(a)(6)(C)(iii) of the Act. Specifically, we made a COS adjustment for imputed credit expenses. Although there were commissions incurred on the U.S. sales but not on home-market sales, we made no commission offset to normal value as Tectubi opted not to report its home-market indirect selling expenses. Finally, we deducted home-market packing costs to normal value and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-

average dumping margin exists for the period February 1, 2010, through January 31, 2011:

<u>Manufacturer/Exporter</u>	<u>Weighted-Average Margin (percent)</u>
<hr/>	
Tectubi Raccordi S.p.A./Raccordi Forgiati S.r.l./	
Allied International S.r.l.	0.00

Disclosure and Public Comments

The Department will disclose the calculations used in our analysis to parties to this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for submitting the case briefs. *See* 19 CFR 351.309(d). Parties who submit argument in these proceedings are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Parties are reminded that any case or rebuttal briefs must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System, in compliance with the procedures set forth in *Antidumping and Countervailing Duty*

Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures, 76 FR 39263 (July 6, 2011).

The Department intends to issue the final results of this administrative review, including the results of our analysis of the issues in any such argument or at a hearing, within 120 days of the date of publication of this notice.

Duty Assessment

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate importer- or customer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the period of review to the total customs value of the sales used to calculate those duties. Where the duty assessment rates are above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer in accordance with the requirements set forth in 19 CFR 351.106(c)(2).

As noted above, the Department clarified its “automatic assessment” regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the period of review that were produced by Tectubi and for which it did not know that the merchandise was destined for the United States. Likewise, if we make a final determination of no shipments for Filmag, which certified that it made no review-period shipments of subject merchandise for which it had knowledge of U.S. destination, the clarification will apply to any entries of subject merchandise during the period of review produced by that company. In such instances, we will instruct CBP to liquidate un-reviewed entries at the all-others rate of 26.59 percent, established

in the less-than-fair-value (LTFV) investigation of the order, if there is no rate for the intermediate company(ies) involved in the transaction. *See Antidumping Duty Orders: Stainless Steel Butt-Weld Pipe Fittings From Italy, Malaysia, and the Philippines*, 66 FR 11257, 11258 (Feb., 23, 2001). For a full discussion of this matter, *see Assessment Policy Notice*.

We intend to issue assessment instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash-deposit requirements will be effective, upon completion of the final results of this administrative review, for all shipments of SSBW pipe fittings from Italy entered or withdrawn from warehouse for consumption on or after the date of publication of the final results of review, as provided by section 751(a)(1) of the Act: (1) the cash-deposit rate for Tectubi will be the rate established in the final results of this review, except if the rate is less than 0.50 percent (*de minimis* within the meaning of 19 CFR 351.106(c)(1)), in which case the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most-recent period; (3) if the exporter is not a firm covered in this review, the prior review, or the LTFV investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash-deposit rate will be the all-others rate of 26.59 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

December 15, 2011 _____
Date

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